

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JESSE CRUZ, *et al.*,

Plaintiffs,

vs.

DANNY DURBIN, *et al.*,

Defendants.

Lead Case: 2:11-cv-342-LDG-VCF

ORDER

KAREN WILSON,

Plaintiff,

vs.

JESSE CRUZ, *et al.*,

Defendants.

Member Case: 2:12-cv-51-LDG-VCF

JESSE CRUZ, *et al.*,

Plaintiffs,

vs.

WABASH NATIONAL CORPORATION, *et al.*,

Defendants.

Member Case: 2:12-cv-1627-LDG-VCF

Before the court is Jesse Cruz's Motion to Seal (#182). On August 27, 2014, Cruz filed a motion for discovery sanction and inadvertently failed to ask the court to seal a document that is subject to the parties' joint confidentiality agreement and protective order. (*See* Doc. (#141) at Ex. 11). On October 9,

1 2014, the court held a hearing on Cruz's motion and ordered Cruz to file an appropriate order that
2 complies with Local Rule 10-5(b) and the Ninth Circuit's decision in *Kamakana v. City of Honolulu*,
3 447 F.3d 1172 (9th Cir. 2006).

4 On October 28, 2014, Cruz filed the instant motion to seal. He relies on *In re Roman Catholic*
5 *Archbishop of Portland in Or.*, 661 F. 3d 417, 424 (9th Cir. 2011), and argues that for non-dispositive
6 filings a specific showing of good cause is not required under *Kamakana* if, as here, the non-dispositive
7 filing is subject to a joint confidentiality agreement and protective order. In *In re Roman Catholic*
8 *Archbishop of Portland in Or.*, the Ninth Circuit stated,

9 While courts generally make a finding of good cause before issuing a protective order, a
10 court need not do so where (as here) the parties stipulate to such an order. When the
11 protective order was a stipulated order and no party ha[s] made a good cause showing,
then the burden of proof . . . remain[s] with the party seeking protection.

12 *Id.* at 424 (citations and quotation marks omitted). Here, the protective order made no specific good
13 cause showing regarding exhibit eleven. Nonetheless, the court has reviewed exhibit eleven and finds
14 that there is an adequate factual basis for sealing it. Exhibit eleven contains Wabash's design
15 specifications and intellectual property. Sealing exhibit eleven poses no harm to the public. On the
16 contrary, protecting a person's intellectual property serves the public interest. *Monsanto Co. v. Rohm &*
17 *Haas Co.*, 456 F.2d 592, 599 (3d Cir. 1972) (stating that intellectual property is "recognized by the
18 Constitution . . . [as] a special privilege designed to serve the public purpose of promoting the "Progress
19 of Science and useful Arts."").
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1 ACCORDINGLY, and for good cause shown,

2 IT IS ORDERED that Jesse Cruz's Motion to Seal (#182) is GRANTED.

3 IT IS FURTHER ORDERED that Exhibit 11 to Jesse Cruz's Motion for Discovery Sanctions
4 (#141) is SEALED.

5 IT IS SO ORDERED.

6 DATED this 6th day of November, 2014.

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8 CAM FERENBACH
9 UNITED STATES MAGISTRATE JUDGE
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